

1 IN THE DISTRICT COURT OF LOGAN COUNTY

2 STATE OF OKLAHOMA

3 CLYDE LAFFERTY, JR., and
4 SHEILA LAFFERTY, individually,
and as Parents and Next
Friends of K.L. and E.L.,
5 minor children,

6 Plaintiffs,

vs.

No. CJ-2017-223

7

JESSICA BUTLER, an individual,
and STATE FARM MUTUAL
AUTOMOBILE INSURANCE CO.,
d/b/a STATE FARM INSURANCE
CO., a foreign for-profit entity,

10

Defendants.

11

VIDEOTAPED DEPOSITION OF 3230(C)(5) WITNESS
JASON MOORE

12

TAKEN ON BEHALF OF THE PLAINTIFFS
ON MARCH 13, 2020, BEGINNING AT 9:37 A.M.
IN OKLAHOMA CITY, OKLAHOMA

13

14 APPEARANCES

15

On behalf of the PLAINTIFFS:

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24

VIDEOTAPED BY: Stesha Snow

25

REPORTED BY: Jane McConnell, CSR RPR CMR CRR

1 these?

2 MS. RUST: Uh-huh.

3 MS. FULMER: Because I don't want Mike to
4 not have something. What I attempted to do -- we'll
5 call this Exhibit 11.

6 MR. BREWER: You already have an 11.

7 MS. FULMER: I'm sorry. I meant to say
8 12. Thank you.

9 (Exhibit 12 marked for identification.)

10 MS. FULMER: We will call this Exhibit 12.

11 MS. RUST: You'll have to lay them
12 side-by-side.

13 MS. FULMER: I taped mine together.

14 MR. BREWER: Obviously it goes in date
15 order.

16 MS. RUST: That's right.

17 MS. FULMER: Yes.

18 Q (BY MS. FULMER) Exhibit 12 that I put in
19 front of you is just meant to be an aid for you and
20 me today as we talk about the topics we're going to
21 talk about. Okay?

22 A Yes, ma'am.

23 Q I am not professing or trying to tell you
24 this is the way it is. In fact, I want you to kind
25 of help me where I might have not gotten it right.

1 Okay?

2 A (Witness nods affirmatively.)

3 Q But from a generic standpoint, what I
4 tried to do is track since 1997 State Farm's
5 treatment of double-insured claims in Oklahoma.

6 Do you see that?

7 A Yeah. I'm just looking at this for the
8 first time. Yeah. I think I kind of track what --

9 Q You see what I was trying to do?

10 A Yes, I believe so.

11 Q I said it was double insured in Oklahoma,
12 but I must actually say there are some national
13 standards in there when it's talking about ACM
14 changes. ACM changes are intended to be nationally;
15 correct?

16 A The auto claim manual is, yes. It applies
17 across the company.

18 Q So if you will for me, and this is just me
19 asking because I didn't ask for it in the notice,
20 but if you know, do you know when Oklahoma first set
21 up the specialty UM units?

22 MR. BREWER: Object to the form.

23 A I don't -- I don't remember exactly when
24 that might have been.

25 Q (BY MS. FULMER) Okay. I recognize I'm

1 asking you something that wasn't necessarily on the
2 notice, but it might have come up. So I thought I'd
3 ask.

4 It's fair, based on your own history,
5 that you were not handling Oklahoma UM claims in
6 1997?

7 A In 1997, now you're going to make me
8 backtrack on my history, I would have been in the
9 state of Kansas, I believe, in 1997. So typically,
10 no, I would not have been handling Oklahoma UM
11 claims.

12 Q And as we know, Oklahoma had two teams
13 that were handling Oklahoma UM claims, and one was
14 in Edmond and one was in Norman; correct?

15 MR. BREWER: Object to the form.

16 A I mean, I'm not sure when that started,
17 but at some point, yes, we had two teams that were
18 handling claims, UM claims, primarily in Oklahoma
19 City and Norman or Edmond, I'm sorry, Edmond and
20 Norman.

21 Q (BY MS. FULMER) And the team leaders of
22 those or team managers of those were Oscar Rodriguez
23 and Jason Taylor?

24 A Yes, ma'am, that's correct.

25 Q And did you happen to read Jason Taylor's

1 deposition from the case of Christie versus State

2 Farm?

3 A I did not.

4 Q He testified in that case as a corporate
5 representative as you are sitting here today. Are
6 you aware of that?

7 A I don't know that I was aware that he was
8 a corporate representative, no.

9 Q Mr. Taylor was presented to testify about
10 State Farm's UM, Oklahoma UM handling. Okay?

11 A I'll take your word for that.

12 Q And he described himself as pretty much
13 the expert on Oklahoma UM. Were you aware of that?

14 A I was not.

15 Q Are you -- do you have any knowledge of
16 him being at any point in time the UM expert in
17 Oklahoma?

18 A I don't know that we ever designated
19 anybody the UM expert. I know Jason had some -- a
20 lot of experience handling Oklahoma UM claims. I
21 don't know that I would have ever called him the
22 expert.

23 Q In fact, with a lot of experience comes
24 expertise. Wouldn't you agree with that?

25 A Sometimes, yes.

1 Q Mr. Taylor was over a team of UM adjusters
2 for over 15 years. Are you aware of that?

3 A I don't recall the dates, but that would
4 actually be surprising to me that it would have been
5 that long, but it's possible.

6 Q His testimony in the Christie case was
7 that from 1999 until 2014 he was team manager of a
8 UM team that handled Oklahoma UM claims.

9 A I have no doubt to doubt --

10 MR. BREWER: Object to the form.

11 A I'm sorry. I have no doubt to doubt his
12 testimony or no reason to doubt his testimony.

13 Q (BY MS. FULMER) And were you aware that
14 those units were handling -- and I think you said
15 primarily Oklahoma UM claims. Is that what I
16 understood you to say?

17 A In my experience, they would have handled
18 other claims involved, potentially collision claims,
19 rental claims, those kind of things that were
20 ancillary to those UM claims as well. That's my
21 recollection of that.

22 Q No. That's helpful. Thank you.

23 So when the UM adjuster had a claim which
24 the jury already knows from other depositions that were
25 first-party claims, that adjuster might also handle

1 are on your timeline. We might have had Kansas
2 claims. We might have had Arkansas, Louisiana,
3 Missouri. It just depends on where we fall in this
4 timeline and, bluntly, I can't remember when we went
5 from region to zone. I'd have to be reminded on
6 those dates.

7 Q Okay. If it would help you and me, if you
8 will look at Exhibit 12. When I am talking about
9 the UM specialty units, I am going to be talking
10 about anywhere that that blue arrow covers. Are you
11 with me?

12 A The darker blue arrow, the top arrow.

13 Q Yes, the one at the top.

14 A Okay.

15 Q So from 1997 through to the mid 2014, do
16 you see where I am?

17 A Yes. This darker blue arrow, yes.

18 Q And we can agree that sometime in the fall
19 of 2014 the Oklahoma specialty units were no longer
20 in existence; true?

21 MR. BREWER: Object to the form.

22 A I believe that's about the right timing
23 for that, yes.

24 Q (BY MS. FULMER) Do you have an exact date
25 when that happened?

1 A I do not have an exact date.

2 Q But it's fair to say that through sometime
3 in the latter part of 2014 Oklahoma UM claims were
4 being handled in specialty units?

5 MR. BREWER: Object to the form.

6 A Sometime in the middle of 2014, yes, I
7 would think that's correct.

8 Q (BY MS. FULMER) And as we already
9 established, 1997 is a guess on my part, and you're
10 not quite sure when Oklahoma started with those UM
11 units?

12 A I don't recall when we started.

13 Q But if we leave 1997 as approximate and
14 take it through to mid 2014, when I'm talking about
15 the Oklahoma UM specialty unit, that is the period
16 of time I'll be talking about. Okay?

17 MR. BREWER: Object to the form.

18 A Yes.

19 MR. BREWER: And the reason I'm objecting
20 is I thought you said 1999 based on Jason Taylor's
21 testimony, and that's why I don't understand why you
22 have the extra two years.

23 MS. FULMER: Just to clarify, that's when
24 Jason Taylor was over the unit. I don't know that
25 it did not exist before.

1 **for sure through the mid 2014, those specialty UM**
2 **units in Edmond and Norman, Oklahoma were handling**
3 **Oklahoma UM claims?**

4 A Yeah, along with the other what we -- I
5 think we deemed ancillary or similar coverages that
6 would go along with those, yes. And they may have
7 been handling other states as well. We also talked
8 about that.

9 Again, that wasn't in the notice. I
10 didn't prepare to answer that. This is my personal
11 experience and my personal recollection that they
12 may have been handling UM claims for other states as
13 well.

14 Q **And I believe his testimony makes clear**
15 **that he was --**

16 A Okay.

17 Q **-- during part of that time, and I agree**
18 **with you. It moves around.**

19 A Yes.

20 Q **But we can be confident that at least 15**
21 **years Oklahoma UM claims were being handled isolated**
22 **from liability claims?**

23 MR. BREWER: Object to the form.

24 A I think primarily that would have been the
25 case. There may have been times when they weren't.

1 I personally can recall times when I did that on my
2 own, but that would have been -- most of the claims
3 were handled in those units, yes.

4 Q (BY MS. FULMER) In law school we're
5 taught general rule and exceptions to the general
6 rule. As a general rule, that is true that UM and
7 liability claims were handled separately?

8 A I would --

9 MR. BREWER: Object to the form.

10 A If you're talking about the timeline that
11 we have listed here, yes, ma'am.

12 Q (BY MS. FULMER) Thank you. And the
13 exception to that general rule would be someone
14 might actually handle both for some off reason?

15 A Yeah. The facts and circumstances of all
16 different claims could make a different decision on
17 those. I personally recall maybe handling both a
18 liability and a UM claim during that time frame,
19 but it would have been using your phrasing "the
20 exception, not generally the rule."

21 Q Now, a UM claim and a liability claim are
22 not the same thing; true?

23 A In what respect?

24 Q They are two different claims under two
25 different policies?

1 of a single car wreck?

2 MR. BREWER: Object to the form.

3 Q (BY MS. FULMER) That's a double-insured
4 claim; correct?

5 MR. BREWER: Object to the form.

6 A So are we looking at -- when you're
7 talking about --

8 Q (BY MS. FULMER) Let me strike that, and
9 I'm going to say it again.

10 A Okay.

11 Q Exhibit 12 that I put there in front of
12 you, the title of that exhibit, do you see that?

13 A Yes, ma'am.

14 Q And I've titled it "State Farm's Treatment
15 of Double-Insured Claims." Do you see that?

16 A Yes, ma'am.

17 Q And my goal was to kind of set out the
18 history of how State Farm treated double-insured
19 claims. Does that seem to -- I think I've asked
20 you this already, but that seems to set that out,
21 attempts to?

22 A Yes. It attempts to set that out, yes,
23 ma'am.

24 Q And just to be clear, a double-insured
25 claim is when or you guys also call it a "double

1 with" claim, is when a UM claim and a liability
2 claim arise out of the same motor vehicle accident;
3 correct?

4 MR. BREWER: Object to the form.

5 A Yes.

6 Q (BY MS. FULMER) When there is both a
7 liability claim and a UM claim, there are duties
8 that State Farm owes to each one of the insureds
9 under those coverages; correct?

10 A Yes.

11 Q And you and I covered this exhaustively in
12 your last deposition, and I think you and I can
13 agree that the UM claim, the duty owed by State Farm
14 is to the injured party, and on the liability claim
15 the duty owed is to the person who is at fault;
16 correct?

17 MR. BREWER: Object to the form.

18 A When you mean "duty owed," that's the only
19 thing that gets me a little --

20 Q (BY MS. FULMER) Okay.

21 A I'm not really sure exactly what you're
22 talking about. To me, I think about it as the
23 insuring agreement from both the coverages and how
24 those insuring agreements essentially seek to do the
25 same thing.

1 guess? Are you asking me to -- I don't know. What
2 are you asking me, I guess?

3 Q Let me ask it a different way. Does the
4 UM insurance company who owes me both a contractual
5 obligation and the duty of good faith and fair
6 dealing run a risk if it runs afoul of either of
7 those obligations to me?

8 A Yes, ma'am. Yes.

9 Q As opposed to the liability carrier, does
10 it run any risk with regard to me if it is wrong?

11 A With regard to you?

12 Q Yes.

13 A No.

14 Q Back to Exhibit 12, we've already
15 established that this top line is intended to
16 represent the approximate time frame in which
17 Oklahoma had specialty units handling Oklahoma UM
18 claims; correct?

19 A Yes.

20 Q And then on the next line, this orange
21 shaded line, I have until 2005, kind of a shaded
22 orange line. Do you see that?

23 A I do see that.

24 Q Then I have starting at 2005 a solid
25 orange line. Do you see that?

1 A Yes.

2 Q And that solid line runs from 2005 through
3 2010. Do you see that?

4 A Yes, ma'am.

5 Q And that solid line is intended to
6 represent when the ACM, which is the auto claim
7 manual, says that the single adjuster practice is
8 a conflict of interest or potential conflict of
9 interest?

10 A I think it says potential conflict of
11 interest.

12 Q Yes. And that is from 2005 through
13 somewhere approximately 2010 that the ACM indicates
14 that with regard to double-insured claims, there is
15 a potential for a conflict of interest and,
16 therefore, separate claims handlers are going to
17 be handling the UM claim and a liability claim;
18 correct?

19 MR. BREWER: Object to the form.

20 A It says there's a potential conflict of
21 interest, yes.

22 Q (BY MS. FULMER) And because of that
23 conflict of interest, State Farm's strategy is to
24 separate those claims?

25 A In some instances it was, yes.

1 Q Was there an instance where the -- let's
2 back that up.

3 Consistent with our other discussion this
4 morning, the general rule at State Farm, based on
5 this idea that it is a potential for a conflict of
6 interest, State Farm had separate adjusters handling
7 those double-insured claims; correct?

8 A I think for that reason and maybe
9 potentially many other reasons, yes.

10 Q Do you know of any other reason why State
11 Farm had two adjusters handling the double-insured
12 claims during that period of time?

13 A During the time when we're in orange?

14 Q Yes, sir.

15 A Now, this is based on my personal
16 experience, it was just having people that handled
17 those claims more often than other people. We were
18 at that time what I would call highly segmented
19 where we did certain tasks, and that was just part
20 of our strategy in doing those. Those were part of
21 the claims that we had decided to segment. Like
22 maybe we segmented liability. We segmented property
23 claims then. We had a lot of different segmentation
24 at that time.

25 Q If I'm to understand what you're saying

1 then, due to the fact that claims were segmented,
2 you -- double-insured claims would be handled by
3 two different people?

4 A As a general rule?

5 Q **Yes.**

6 A Yes.

7 Q But as a policy statement set forth in the
8 auto claim manual, the reason two adjusters handle
9 double-insured claims is because of the potential
10 for a conflict of interest; correct?

11 A In the auto claim manual without -- you
12 know, if I looked at it again. But, yes, the
13 phrasing is a potential conflict of interest from
14 the best of my recollection.

15 Q And in the Exhibit 12 where I have that
16 shaded orange, the reason I have it shaded orange is
17 because I'm assuming during that period of time that
18 was also State Farm's position. I have not seen
19 anything earlier than 2005.

20 Are you aware of what State Farm's
21 position was on the double-insured claims prior to
22 2005?

23 A I am not.

24 Q So perhaps Oklahoma was handling its UM
25 claims separately as indicated there on the Exhibit

1 MR. BREWER: That way I won't be popping
2 off an objection as to form every time you refer to
3 Exhibit 12 in this area if you just give me that
4 continuing objection.

5 MS. FULMER: Okay.

6 THE WITNESS: I'm sorry. Can we back up
7 to the last question.

8 Q (BY MS. FULMER) Yes, because I've
9 forgotten what it was. So I'll strike it and ask
10 it again because he was so rude in interrupting us.
11 I'll just restate it.

12 A Thank you.

13 Q Sometime in 2011 State Farm had a shift
14 in its approach to the handling of double-insured
15 claims; true?

16 A The approach in the mechanics of how we
17 did that, yes.

18 Q And that mechanic change was that State
19 Farm now wanted to have a single adjuster handle
20 both a liability and a UM claim arising out of the
21 same motor vehicle accident; true?

22 A That is correct.

23 Q And other than the mechanical change, the
24 other change that State Farm made was to set forth
25 its policy in the ACM that having a single adjuster

1 handle both of those claims was not a conflict of
2 interest; correct?

3 MR. BREWER: Object to the form.

4 A It removed the language, yes. It. We
5 removed the language at that time, yes.

6 Q (BY MS. FULMER) In fact, there are
7 different renditions and different versions that
8 went back and forth in the documents I reviewed.

9 You too?

10 A Yes. There was a committee, a working
11 group I think we called it, that were having
12 conversations about those changes.

13 Q And my understanding of reading those
14 documents is that it was clear that State Farm's
15 philosophy had changed, and it no longer was relying
16 on this potential conflict of interest being the
17 reason to separate those claims. Now it was
18 determining that it was not a conflict of interest
19 so a single adjuster could; correct?

20 MR. BREWER: Object to the form.

21 A I'm not sure what all went into that
22 decision, but that's the -- that's how that decision
23 was communicated or at least written down in those
24 emails.

25 Q (BY MS. FULMER) In your preparation for

1 today, was there anything else that in any document
2 you read or in the discussions you had with counsel
3 that lead you to believe there was any other change?

4 A Any other change in?

5 Q Any other reason -- let me restate it.

6 We were talking about, if I believe, the
7 decision to go with a single adjuster handling those
8 claims --

9 A Yes.

10 Q -- and the philosophical shift in the ACM
11 that it was not a conflict of interest to have that
12 single adjuster handle both; right?

13 MR. BREWER: Object to the form.

14 A Yes.

15 Q (BY MS. FULMER) And we know from the
16 emails that you looked at, from discussions you had
17 with counsel, that that is the change that was made
18 to allow a single adjuster to handle both of those
19 claims?

20 A Yes.

21 Q So if you'll look back at Exhibit 12,
22 during the time in 2011 when it was decided at State
23 Farm that the single adjuster practice was not a
24 conflict of interest, Oklahoma continued handling
25 UM claims separately; did it not?

1 A As a general practice, yes.

2 Q And even though the general rule
3 nationally was that State Farm would have a single
4 adjuster handle double-insured claims, Oklahoma
5 continued with its specialty UM units; correct?

6 A We did.

7 Q And sometime in 2014, and I think we
8 established earlier this morning it was towards the
9 end perhaps of 2014, those UM specialty units were
10 disbanded; correct?

11 MR. BREWER: Object to the form.

12 A Yes.

13 Q (BY MS. FULMER) And the single adjuster
14 practice was now being applied to double-insured
15 claims in Oklahoma; correct?

16 A As the general rule, yes.

17 Q And this blue line and the yellow line I
18 carry all the way to 2020 because I have not seen
19 anything, unless you correct me, that the position
20 of State Farm is first that the single adjuster
21 practice is not a conflict of interest; that
22 remains?

23 A That is correct.

24 Q And it remains that in the State of
25 Oklahoma double-insured claims are handled by a

1 single adjuster?

2 A As a general rule, yes.

3 MS. FULMER: We can take a break.

4 MR. BREWER: Do you want to break for
5 lunch?

6 MS. FULMER: Yes.

7 VIDEOGRAPHER: We're off the record at
8 12:00 p.m.

9 (Break taken from 12:00 p.m. to 1:20 p.m.)

10 VIDEOGRAPHER: We're back on the record at
11 1:20 p.m.

12 Q (BY MS. FULMER) Mr. Moore, we have just
13 taken a lunch break. Are you ready to continue?

14 A Yes, ma'am.

15 Q And is there anything about your testimony
16 thus far today that you would like to clarify or
17 change in any way?

18 A No, ma'am.

19 Q When we left off, we were looking at
20 Exhibit 12. I think we had kind of established
21 each of the lines, the different arrows, we had
22 established pretty much that they're kind of in the
23 right place for when those things were occurring at
24 State Farm; is that right?

25 A I believe the arrows are, yes, in the

1 right places.

2 Q In the notice that you were asked to
3 testify on behalf of State Farm, in that notice we
4 had asked some questions about the decision that was
5 made by State Farm sometime in 2011 to go to the
6 single adjuster practice of handling double-insured
7 claims, and you're that witness who's going to
8 testify on that; correct?

9 A Yes, ma'am.

10 Q And one of the questions that we have
11 asked is why did State Farm go to that practice.
12 You're aware of that; correct?

13 A Yes, ma'am.

14 Q And in response to Interrogatory No. 5,
15 State Farm provided an answer to us that you
16 actually had verified. Do you recall that?

17 A I do remember it.

18 (Exhibit 13 marked for identification.)

19 Q (BY MS. FULMER) I'm going to give you a
20 document that I've marked as Exhibit 13. And I, for
21 your benefit, went ahead and put a green sticker on
22 Interrogatory No. 5.

23 MR. BREWER: Is that mine?

24 MS. FULMER: Yes. I did not do the
25 sticker for you. I'm sorry.

1 Q (BY MS. FULMER) And then I also
2 highlighted Interrogatory No. 5. It's there on --
3 I don't know what page you're on.

4 A Nine.

5 Q Nine. The question itself is on Page 9.
6 The supplemental answer, which is actually the
7 operative answer in the case, comes on the next
8 page, and I have highlighted that supplemental
9 answer. Do you see that?

10 A Yes, ma'am.

11 Q And going back to the actual interrogatory
12 itself, that interrogatory asks that State Farm
13 explain why it went to a single adjuster handling
14 those double-insured claims; correct?

15 A That's what the interrogatory asks, yes.

16 Q And when it came to answering that
17 interrogatory on Page 10, State Farm's response in
18 that amended answer was -- if you kind of look
19 through the objections, it basically says that the
20 change was made to improve customer service. Do you
21 see that?

22 A Yes, ma'am.

23 Q The change was made to reduce duplication
24 of effort. Do you see that?

25 A Yes, ma'am.

1 Q The change was made to increase
2 efficiency. Do you see that?

3 A I do.

4 Q And the way I read the next, it was --
5 the change was made to increase consistency.

6 A Yes. It says "and consistency in claim
7 handling."

8 Q And that is the reason why that was set
9 forth by State Farm for that change having been made
10 in 2011; correct?

11 A Yes. That's what the answer says, yes.

12 Q And as the witness here today, is there
13 anything about that explanation of why that you want
14 to change or amend or add to?

15 A I do not.

16 Q Okay. With regard to that change, one of
17 the things that we asked someone to testify about is
18 who made that decision to have a single adjuster
19 handle both a UM and a liability claim in 2011 when
20 the change was made. Do you remember that?

21 A Do I remember that question being posed?

22 Q Yes.

23 A Yes.

24 Q And are you prepared today to tell us who
25 made that decision?